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### State v. Arambula Appellant's Brief Dckt. 47888

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	
	)	
Plaintiff-Respondent,	)	NOS. 47888-2020 & 47889-2020
	)	
v.	)	ADA COUNTY NOS. CR01-18-23629 &
	)	CR01-20-3242
	)	
AURELIO ARAMBULA, III,	)	APPELLANT'S BRIEF
	)	
Defendant-Appellant.	)	
_____	)	

STATEMENT OF THE CASE

Nature of the Case

Aurelio Arambula, III, was on probation in a 2018 case when he was charged in a 2020 case. The State subsequently filed a motion to revoke his probation in the 2018 case. After he admitted to one of the alleged probation violations, the district court revoked Mr. Arambula's probation and executed the underlying sentence in his 2018 case. Mr. Arambula also pled guilty in the 2020 case to possession of a controlled substance (methamphetamine), and the district court sentenced him to seven years, with two years fixed. Mr. Arambula appeals, and he argues the district court abused its discretion by executing his sentence in the 2018 case without retaining jurisdiction and by imposing an excessive sentence in the 2020 case.

## Statement of Facts and Course of Proceedings

On May 21, 2018, a criminal complaint was filed alleging that Mr. Arambula possessed a controlled substance (methamphetamine) and drove without privileges. (No. 47888 R., pp.13-14.) Pursuant to a plea agreement, Mr. Arambula pled guilty to the possession of a controlled substance charge, and the misdemeanor charge was dismissed.<sup>1</sup> (No. 47888 R., pp.59-65.) In December 2019, Mr. Arambula was sentenced to seven years, with two years fixed, suspended for probation. (No. 47888 R., pp.88-97.)

On January 21, 2020, another criminal complaint was filed against Mr. Arambula alleging that he had committed the crime of possession of a controlled substance (methamphetamine) and misdemeanor possession of drug paraphernalia. (No. 47889 R., pp.6-10.) Shortly thereafter, a motion for probation violation was filed in Mr. Arambula's 2018 case. (No. 47888 R., pp.101-17.) In the 2020 case, Mr. Arambula pled guilty to the possession of a controlled substance charge pursuant to a plea agreement.<sup>2</sup> (No. 47889 R., pp.15-25.) Mr. Arambula then entered an admission to a probation violation in the 2018 case. (Tr.,<sup>3</sup> p.9, Ls.3-17.) At the joint disposition and sentencing hearing for the cases, the State recommended that Mr. Arambula serve a concurrent sentence of seven years, with two years fixed, in the 2020 case, and that Mr. Arambula's probation be revoked and his sentence executed in the 2018 case. (Tr., p.16, Ls.6-10, p.16, Ls.21-25.) Mr. Arambula's defense counsel requested that the district

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<sup>1</sup> As part of the plea agreement, the State also agreed to dismiss charges pending in a separate case, CR01-19-23405, and agreed to not seek a persistent violator enhancement.

<sup>2</sup> As part of the plea agreement, the possession of paraphernalia charge was dismissed and the State agreed to recommend a sentence concurrent to the 2018 case.

<sup>3</sup> There is one transcript on appeal, which contains the probation violation admission hearing and the joint sentencing and disposition hearing.

court retain jurisdiction (a “rider”) in both cases, and asked for the determinate portion of the 2020 case to be one year.<sup>4</sup> (Tr., p.20, L.15—p.21, p.13.)

In the 2018 case, Mr. Arambula’s probation was revoked and his original sentence was executed without the court retaining jurisdiction. (No. 47888 R., pp.127-30.) In the 2020 case, he was sentenced to serve seven years, with two years fixed, concurrent with the 2018 case.<sup>5</sup> (No. 47889 R., pp.31-35.)

Mr. Arambula timely appealed from the district court’s order revoking his probation in the 2018 case and the judgment of conviction in the 2020 case. (No. 47888 R., pp.133-136; No. 47889 R., pp.40-42.)

### ISSUES

- I. Did the district court abuse its discretion when it revoked Mr. Arambula’s probation and executed his underlying sentence without retaining jurisdiction?
- II. Did the district court abuse its discretion when it sentenced Mr. Arambula to seven years, with two years fixed, for possession of methamphetamine?

### ARGUMENT

#### I.

#### The District Court Abused Its Discretion When It Revoked Mr. Arambula’s Probation And Executed His Underlying Sentence Without Retaining Jurisdiction

The district court is empowered by statute to revoke a defendant’s probation under certain circumstances. I.C. §§ 19-2602, -2603, 20-222. The Court uses a two-step analysis to

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<sup>4</sup> Defense counsel made no recommendation on the length of the indeterminate portion of the sentence. (Tr., p.21, Ls.12-13.)

<sup>5</sup> Mr. Arambula filed a timely motion for reduction of sentence pursuant to Idaho Criminal Rule 35 in the 2020 case. (No. 47889 R., pp.45-46.) An order denying Mr. Arambula’s motion for a reduction of sentence was entered on July 9, 2020, and is not part of the Court’s current record. Given that no new information was presented to the district court in that motion, Mr. Arambula does not challenge the district court’s order denying it.

review a probation revocation decision. *State v. Sanchez*, 149 Idaho 102, 105 (2009). First, the Court determines “whether the defendant violated the terms of his probation.” *Id.* Second, “[i]f it is determined that the defendant has in fact violated the terms of his probation,” the Court examines “what should be the consequences of that violation.” *Id.* The determination of a probation violation and the determination of the consequences, if any, are separate analyses. *Id.*

Here, Mr. Arambula neither challenges his admission to violating his probation, nor challenges the district court’s revocation of his probation. “[W]hen a probationer admits to a direct violation of his probation agreement, no further inquiry into the question is required.” *State v. Peterson*, 123 Idaho 49, 50 (Ct. App. 1992) (citation omitted). Rather, Mr. Arambula submits the district court did not exercise reason, and therefore abused its discretion, by executing his sentence without retaining jurisdiction.

When this Court reviews an alleged abuse of discretion by a trial court the sequence of inquiry requires consideration of *four* essentials. Whether the trial court: (1) correctly perceived the issue as one of discretion; (2) acted within the outer boundaries of its discretion; (3) acted consistently with the legal standards applicable to the specific choices available to it; and (4) reached its decision by the exercise of reason.

*Lunneborg v. My Fun Life*, 163 Idaho 856, 863 (2018).

In his presentence investigation (“PSI”) for the 2018 case, Mr. Arambula reported that he had been using around one to three grams of methamphetamine nearly every other day prior to his arrest. (PSI,<sup>6</sup> p.71.) According to the Global Appraisal of Individual Needs (“GAIN”) evaluation, Mr. Arambula began using controlled substances when he was [REDACTED] and methamphetamine when he was [REDACTED] (PSI, pp.77-80.) Based on Mr. Arambula’s reported use, the GAIN evaluator believed that Mr. Arambula’s symptoms were

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<sup>6</sup> Citations to the “PSI” refer to the 229-page electronic document with the confidential sentencing materials, titled “Conf.Docs.-Aramb-47888”.

sufficient to meet the criteria for severe amphetamine use disorder. (PSI, pp.79-80.) Mr. Arambula reported that he had used methamphetamine on twenty-three of the previous ninety days prior to the evaluation, and he reported ten lifetime problems that were specific to his amphetamine use disorder. (PSI, pp.79-80.) The GAIN assessor stated that Mr. Arambula's responses indicated a moderate motivation for treatment. (PSI, pp.83-84.) Mr. Arambula also informed the presentence investigator that he was open to receiving treatment in a substance abuse program. (PSI, p.71.) Prior to sentencing in the 2018 case, Mr. Arambula had unsuccessfully applied for a drug court specialty program. (Tr., p.19, L.1—p.20, L.14; PSI, p.72; No. 47888 R., pp.66-68, 77-83.)

Mr. Arambula's substance abuse issues, the impact of his substance abuse on his behavior, and his motivation for treatment are strong factors that supported granting his request for the district court to retain jurisdiction. Mr. Arambula's felony criminal history consists entirely of possession of controlled substance offenses. (Tr., p.19, Ls.14-16; PSI, pp.60-65.) Mr. Arambula has been open and honest with the courts regarding his drug addiction throughout his cases, and he has taken responsibility for his actions each time. (Tr., p.19, L.16—p.20, L.7.) At the probation violation disposition hearing, Mr. Arambula's attorney requested that Mr. Arambula be sent on a rider so that he could obtain further treatment and programming in a structured environment. (Tr., p.20, L.18—p.21, L.5.)

In light of these facts, Mr. Arambula submits that the district court did not exercise reason, and thus abused its discretion, by executing his sentences without retaining jurisdiction. Mr. Arambula could be successful in the community under proper control and supervision if he receives the treatment and programming he needs to address his substance abuse issues. The district court should have allowed him to obtain that necessary programming on a rider.

## II.

### The District Court Abused Its Discretion When It Sentenced Mr. Arambula To Seven Years, With Two Years Fixed, For Possession Of Methamphetamine

“Where the sentence imposed by a trial court is within statutory limits, ‘the appellant bears the burden of demonstrating that it is a clear abuse of discretion.’” *State v. Windom*, 150 Idaho 873, 875 (2011) (quoting *State v. Stevens*, 146 Idaho 139, 148 (2008)).

When this Court reviews an alleged abuse of discretion by a trial court the sequence of inquiry requires consideration of *four* essentials. Whether the trial court: (1) correctly perceived the issue as one of discretion; (2) acted within the outer boundaries of its discretion; (3) acted consistently with the legal standards applicable to the specific choices available to it; and (4) reached its decision by the exercise of reason.

*Lunneborg*, 163 Idaho at 863. In this matter, Mr. Arambula’s sentence does not exceed the statutory maximum. *See* I.C. § 37-2732(c)(1) (seven-year maximum). Accordingly, to show that the sentence imposed was unreasonable, Mr. Arambula “must show that the sentence, in light of the governing criteria, is excessive under any reasonable view of the facts.” *State v. Strand*, 137 Idaho 457, 460 (2002).

“[R]easonableness” implies that a term of confinement should be tailored to the purposes for which the sentence is imposed.” *State v. Toohill*, 103 Idaho 565, 568 (Ct. App. 1982).

In examining the reasonableness of a sentence, the Court conducts an independent review of the entire record available to the trial court at sentencing, focusing on the objectives of criminal punishment: (1) protection of society; (2) deterrence of the individual and the public; (3) possibility of rehabilitation; and (4) punishment or retribution for wrongdoing.

*Stevens*, 146 Idaho at 148. “A sentence is reasonable if it appears necessary to accomplish the primary objective of protecting society and to achieve any or all of the related goals of deterrence, rehabilitation, or retribution.” *State v. Delling*, 152 Idaho 122, 132 (2011).

In this case, Mr. Arambula asserts the district court did not exercise reason, and therefore abused its discretion, by imposing a sentence that is excessive under any reasonable view of the facts. Specifically, Mr. Arambula contends the district court should have sentenced him to a lesser term of imprisonment or retained jurisdiction in light of the mitigating factors, including his substance abuse disorder and amenability to treatment.

Mr. Arambula incorporates and respectfully refers this Court to the mitigating information discussed in Part I. As explained in Part I, Mr. Arambula has struggled with drug addiction for a long time. (Tr., p.23, Ls.13-17.) At sentencing, Mr. Arambula's attorney requested that Mr. Arambula be given an opportunity to complete a rider and that the fixed portion of the 2020 case only be for one year so that Mr. Arambula could complete the determinate portion of the sentence for both of his cases at around the same time. (Tr., p.20, L.18—p.22, L.8, p.24, Ls.4-8.) Mr. Arambula's attorney indicated that Mr. Arambula was willing to participate in treatment and programming while incarcerated, and that Mr. Arambula wanted to use those resources to successfully transition back into the community. (Tr., p.21, Ls.18-22.) The impact of substance abuse on the defendant's criminal conduct is "a proper consideration in mitigation of punishment upon sentencing." *State v. Osborn*, 102 Idaho 405, 414 n.5 (1981).

Proper consideration of these mitigating factors supported a more lenient sentence. In light of these facts, Mr. Arambula submits that the district court did not exercise reason, and thus abused its discretion, by declining to retain jurisdiction and sentencing him to serve seven years, with two years fixed.



CONCLUSION

On the 2018 case, Mr. Arambula respectfully requests this Court vacate the district court's order revoking his probation and remand his case to the district court for an order retaining jurisdiction. On the 2020 case, Mr. Arambula respectfully requests this Court reduce his sentence as it deems appropriate. In the alternative, he respectfully requests this Court vacate the district court's judgment of conviction and remand his case for a new sentencing hearing.

DATED this 1<sup>st</sup> day of October, 2020.

/s/ Jacob L. Westerfield  
JACOB L. WESTERFIELD  
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1<sup>st</sup> day of October, 2020, I caused a true and correct copy of the foregoing APPELLANT'S BRIEF, to be served as follows:

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